

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**MICHELANGELO CAPUA, in his
capacity as Personal Representative
of the ESTATE OF CARLO CAPUA,
Deceased,**

Plaintiff,

vs.

**DUNCAN AVIATION, INC. A Nebraska
Corporation,**

Defendant.

Case No. 8:14CV335

**ORDER AMENDING FINAL
PROGRESSION DEADLINES**

This case is before the court on the Joint Motion to Continue Trial and All Associated Pretrial Dates (Filing No. 52). The motion will be granted.

IT IS ORDERED that the provisions of the court's earlier, initial progression order remain in effect, and in addition to those provisions, the unexpired deadlines are amended as follows:

1. **Motions in Limine (non expert).** Any motions in limine shall be filed on or before **May 16, 2016**.

2. The **Final Pretrial Conference** with the undersigned magistrate judge is set for **May 23, 2016, at 9:30 A.M.**, in chambers, 111 South 18th Plaza, Suite 2210, Roman L. Hruska United States Courthouse, Omaha, Nebraska. The final pretrial conference shall be attended by lead counsel for represented parties. Counsel shall complete prior to the pretrial conference, all items as directed in NECivR 16.2.¹ By the time of the pretrial conference, full preparation for trial shall have been made so that trial may begin immediately thereafter. The pretrial conference will include a discussion of settlement, and counsel shall be prepared

¹All personal information should be redacted from the public version of the order and/or attachments filed with the Clerk. See NECivR 5.0.3.

through investigation, discovery and communication with clients and insurers, if any, to discuss fully the subject of settlement, including realistic expectations about liability, obstacles to agreement, offers made, and offers which can be made at the conference. Counsel shall be prepared to make additional offers or proposals for settlement in behalf of their clients at the pretrial conference, and counsel shall be prepared to make or opine on recommendations for further negotiations and conferences.

3. **Mediation and Settlement:**

a. If the parties intend to mediate their dispute, **notice of the mediation** shall be given to the staff of the magistrate judge's office. The filing of a mediation reference order will terminate pending motions, without prejudice to refiling. If the mediation is not successful, the moving party may reinstate such a motion by filing a written notice to that effect, and the other parties may respond in accordance with the local rules, regarding the date of the notice as reinstating the response/reply time that remained as of the date the mediation reference order was filed.

b. Not later than **two weeks prior to trial**, plaintiff or plaintiff's counsel shall serve on defendant or defendant's counsel a written, updated settlement proposal. Defendant or defendant's counsel shall respond in writing to such proposal not later than one week before trial.

c. **Notice of settlement** shall be given to the trial judge's office as soon as practicable but in any event in time to avoid summoning a jury. If a case settles and notice of settlement is not given in sufficient time to avoid summoning a jury, assessment of jury costs may – and normally will – be made against a party and/or counsel for one or more of the parties. For purposes of this paragraph, a jury is considered summoned for a trial at noon the business day prior to the designated date of trial.

4. **A Non-jury trial** is set to commence, at the court's call, during the week of **June 21, 2016**, in **Omaha**, Nebraska, before the **Honorable Joseph F. Bataillon**, Senior United States District Judge. Unless otherwise ordered, jury selection shall be at the commencement of trial.

5. Motions to Alter Dates. All requests for changes of deadlines or settings established herein shall be directed to the magistrate judge by appropriate motion, including all requests for changes of trial dates. Such motions shall not be considered in the absence of a showing by counsel of due diligence in the timely development of this case for trial and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

DATED: February 18, 2016.

BY THE COURT:

**s/ F.A. Gossett, III
United States Magistrate Judge**